

VERMONT STATUTES ANNOTATED
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FOR THE STATE OF VERMONT

*** STATUTES CURRENT THROUGH THE 2003 SESSION***
*** ANNOTATIONS OF DECISIONS FROM THE VERMONT SUPREME COURT
THROUGH FEBRUARY 14, 2003 (174 VT. REPORTS) ***

TITLE THIRTY-THREE. HUMAN SERVICES
PART 3. PROGRAMS AND SERVICES FOR CHILDREN AND YOUTH
CHAPTER 43. CHILDREN AND ADOLESCENTS WITH SEVERE EMOTIONAL DISTURBANCE

§ 4301. Definitions

As used in this chapter:

(1) "Child with a disability" means a child who either is eligible for early essential education or special education under state or federal law, or who is a child or adolescent with a severe emotional disturbance.

(2) "Coordinated service plan" means a written addendum to each service plan developed by an individual agency for a child or adolescent with severe emotional disturbances which shall be developed when the child has needs that require services from more than one agency. The coordinated services plan shall be designed to meet the needs of the child within his or her family or in an out-of-home placement, and in the school and the community. The coordinated services plan shall:

- (A) be based upon an appropriate assessment of the individual needs of the child;
- (B) identify service needs of the child;
- (C) identify services which are currently being provided;
- (D) identify public or private agencies that currently provide each needed service, and how each needed service is funded;
- (E) if any service need is not being met, include an explanation of why the service is not being provided, including lack of funds or the fact that service is not available;
- (F) delineate case management responsibilities;
- (G) include a reintegration plan when an out-of-home placement is made or recommended; and
- (H) be developed with the opportunity for participation from parents, a guardian or a surrogate parent appointed pursuant to P.L. 94-142.

(3) "Child or adolescent with a severe emotional disturbance" means a person who:

- (A) exhibits a behavioral, emotional, or social impairment that disrupts his or her academic or developmental progress or family or interpersonal relationships;
- (B) has impaired functioning that has continued for at least one year or has an impairment of short duration and high severity;
- (C) is under 18 years of age, or is under 22 years of age and eligible for special education under state or federal law; and
- (D) falls into one or more of the following categories, whether or not he or she is diagnosed with other serious disorders such as mental retardation, severe neurological dysfunction or sensory impairments;
 - (i) Children and adolescents who exhibit seriously impaired contact with reality and severely impaired social, academic and self-care functioning whose thinking is frequently confused, whose behavior may be grossly inappropriate and bizarre and whose emotional reactions are frequently inappropriate to the situation.

(ii) Children and adolescents who are classified as management or conduct disordered because they manifest long-term behavior problems including developmentally inappropriate inattention, hyperactivity, impulsiveness, aggressiveness, antisocial acts, refusal to accept limits, suicidal behavior or substance abuse.

(iii) Children and adolescents who suffer serious discomfort from anxiety, depression, irrational fears and concerns whose symptoms may be exhibited as serious eating and sleeping disturbances, extreme sadness of suicidal proportion, maladaptive dependence on parents, persistent refusal to attend school or avoidance of nonfamilial social contact.

HISTORY: Added 1987, No. 264 (Adj. Sess.), § 2; amended 1989, No. 203 (Adj. Sess.), § 1.

NOTES:
HISTORY

REFERENCES IN TEXT. P.L. 94-142, referred to in subdiv. (2)(H), is cited as the "Education For All Handicapped Children Act of 1975" and is classified to 20 U.S.C. § § 1232, 1401, 1405, 1411-1420, 1435.

CODIFICATION. Pursuant to 1989, No. 148 (Adj. Sess.), § 2(e), the amendment to former 3 V.S.A. § 31 by 1989, No. 203 (Adj. Sess.), § 1, was incorporated in the text of this section.

REVISION NOTE. In subdiv. (3)(C), deleted a comma preceding "is under 22" for purposes of clarity.

AMENDMENTS--1989 (ADJ. SESS.). Subdivision (2): Amended generally.

PRIOR LAW. 3 V.S.A. § 31.

NOTES APPLICABLE TO ENTIRE TITLE

HISTORY

AMENDMENTS--1989 (ADJ. SESS.). 1989, 148 (Adj. Sess.), § 1 substituted "Human Services" for "Welfare" in the title heading.

RECODIFICATION OF TITLE. 1989, No. 148 (Adj. Sess.), § 1, provided for the recodification of chapters 1-53 of Title 33. 1989, No. 148 (Adj. Sess.), § 2(a), provided for the recodification of chapter 22 of Title 18 as chapter 69 of recodified Title 33, and chapter 213 of Title 18 as sections 701, 702, 707 and 708 of recodified Title 33. 1989, No. 148 (Adj. Sess.), § 2(b), provided for the recodification of chapter 2 of Title 3 as chapter 43 of recodified Title 33. 1989, No. 148 (Adj. Sess.), § 2(c), provided for the recodification of former chapter 49 of Title 33 as chapter 215 of Title 18. 1989, No. 148 (Adj. Sess.), § 2(e), provided that laws enacted during the 1990 Session shall be recodified within, and as part of, Title 33 as necessary to accomplish the purposes of the act, which recodified this title.

1989, No. 219 (Adj. Sess.), § 10(a), provided for the redesignation of chapter 57 of Title 18 as chapter 55, subchapter 3 of former Title 33, which was redesignated as chapter 63, subchapter 1 of recodified Title 33 pursuant to 1989, No. 148 (Adj. Sess.), § 2(e). 1989, No. 219 (Adj. Sess.), § 10(b), provided for the redesignation of 33 V.S.A. § 2595a as chapter 55, subchapter 5 of former Title 33, which was redesignated as chapter 63, subchapter 2 of recodified Title 33 pursuant to 1989, No. 148 Adj. Sess.), § 2(e). 1989, No. 219 (Adj. Sess.) § 10(c), provided for the redesignation of chapter 45 of Title 18 as chapter 55, subchapter 7 of former Title 33, which was redesignated as chapter 71 of recodified Title 33 pursuant to 1989, No. 148 (Adj. Sess.), § 2(e). 1989, No. 219 (Adj. Sess.), § 10(d), provided for the redesignation of chapter 47 of Title 18 as chapter 55, subchapter 9 of former Title 33, which was redesignated as chapter 73 of recodified Title 33 pursuant to 1989, No. 148 (Adj. Sess.), § 2(e).

In accordance with 1989, No. 148 (Adj. Sess.), § 3, references in text to sections and chapters recodified and redesignated by sections 1 and 2 of the act have been revised to reflect the new designations of those sections and chapters.

Tables indicating disposition of recodified sections are set out following this title.

Sections of Title 33 repealed prior to the recodification were not recodified in new Title 33, and the derivations of those repealed sections are as follows:

Sections 1-24, relating to the department of social welfare, were derived from 1966, No. 20 (Sp. Sess.), § § 9, 10. 1965, No. 6, § 1. 1963, No. 12. 1959, No. 329 (Adj. Sess.), § 41, 1957, No. 62. 1957, No. 222, § § 1, 2. 1955, No. 17. 1955, No. 114. 1955, No. 118. 1953, No. 31. 1953, No. 153, § 1. 1953, No. 236. V.S. 1947, § § 9814-9818, 9820, 9840, 9841, 9851, 9854, 9859, 9860, 9863, 9869, 9870, 9874-9876. 1947, No. 187, § § 1, 2, 3, 5. 1947, No. 202, § § 10, 098, 10,106, 10,107, 10, 120, 10,247. 1941, No. 59, § § 3,4. 1939, No. 131, § 1. 1937, No. 65, § § 5, 6. 1935 S., No. 11, § § 1, 6. 1935, No. 82, § § 19, 20. P.L. § § 5418, 5422, 5427, 5428, 5431, 5432, 5435-5437. 1933, No. 157, § § 5155, 5119, 5124, 5125, 5128, 5129, 5131a-5131c. 1927, No. 37, § § 1-3. 1921, No. 222, § 1. 1919, No. 205, § 2. G.L. § § 7311, 7313, 7317, 7318, 7321. 1917, No. 58. 1917, No. 244, § § 7, 18, 20, 21, 29 and were repealed by 1967, No. 147, § 53(a).

Sections 101-125, relating to general assistance, were derived from 1966, No. 19 (Sp.Sess.). 1966, No. 26 (Sp. Sess.), § 2. 1965, No. 7. 1965, No. 180, § 1. 1963, No. 44, § 1. 1963, No. 68, § § 1-3. 1962, No. 1 (Sp. Sess.). 1961, No. 69, 1961, No. 2. 1959, No. 150. 1957, No. 274, § § 1-15. 1955, No. 173. 1955, No. 249, § 1. 1953, No. 117. 1953, No. 136, § § 1-3. 1953, No. 142, § 2. 1953, No. 153. 1953, No. 206. 1953, No. 219. 1951, No. 18, § 1. 1949, No. 255, § 1. V.S. 1947, § § 9819, 9823-9839, 9843-9847. 1947, No. 193, § § 1, 2. 1947, No. 202, § § 10,256, 10,262, 10,269-10,273. 1946 S., No. 7, § 1. 1946 S., No. 8, § § 1, 2. 1945, No. 54, § § 1-5. 1945, No. 55, § n 1. 1943, No. 48, § § 1, 3-5. 1941, No. 57, § 1. 1941, No. 58. 1939, No. 72, § § 1, 3-5. 1937, No. 64. 1937, No. 65, § § 1, 4, 7, 1935 S., No. 8, § § 1-4. 1035, No. 82, § § 2-4, 8-18, 22, 25 and were repealed by 1967, No. 147, § 53(a).

Sections 161 and 162, relating to amount of payments for medical services and supplies and regulations for obtaining federal funds were derived from 1957, No. 287, § § 1, 2 and were repealed by 1959, No. 200, § 2.

Sections 163 and 164, relating to nursing and hospitalization and medical aid to the aged were derived from 1969, No. 19 (Sp. Sess.), § § 1, 3, 4. 1967, No. 28. 1965, No. 196. 1963, No. 20. 1961, No. 98, § 1. 1961, No. 206, § 1. 1959, No. 329 (Adj. Sess.), § 27. 1959, No. 200, § 1 and were repealed by 1967, No. 147, § 53(a).

Sections 181-189, relating to the advisory rate setting committee for nursing home care were derived from 1975, No. 254 (Adj. Sess.), § 165. 1975, No. 102, § § 1-7. 1965, No. 165, § § 1-6 and were repealed by 1977, No. 204 (Adj. Sess.) § 4.

Sections 301-304, relating to aid to dependent children, were derived from 1965, No. 53. 1963, No. 50, § § 1, 2. 1961, No. 162. 1959, No. 3. 1957, No. 24, § § 1, 2. 1957, No. 299, § 9. 1951, No. 199. 1949, No. 226. V.S. 1947, § § 9864-9867. 1947, No. 202, § § 10,111, 10,113. 1946 S., No. 12, § 1. 1945, No. 119, § 8. 1943, No. 89, § 2. 1941, No. 106, § 1. 1939, No. 130, § 1. 1935 S., No. 11, § § 2-4. 1935, No. 131. P.L. § 5421. 1933, No. 157, § 5118. 1921, No. 218. G.L. § 7312. 1917, No. 244, § 17 and were repealed by 1967, No. 147, § 53(a).

Section 401, relating to United States aid to welfare program, was derived from V.S. 1947, § 9868, 1947, No. 202, § 10,114. 1935 S., No. 11, § 5 and was repealed by 1967, No. 147, § 53(a).

Sections 431-436, relating to state services for children, were derived from 1957, No. 16, & 2. V.S. 1947, § § 9848-9850, 9856-9858. 1947, No. 202, § § 10,095-10,096, 10,103-10,105. 1943, No. 89, & 1. P.L. § § 5415-5417, 5424-5426. 1933, No. 157, § § 5113, 5114, 5121-5123, 51212. 1921, No. 220. 1921, No. 221. 1919, No. 205, & 1. G.L. § § 7308-7310, 7314, 7315. 1917, No. 244, § § 12-16. 1915, No. 92, & 6. 1912, No. 113, & 6 and were repealed by 1967, No. 147, § 53(a).

Sections 437 and 438, relating to medical, dental or surgical treatment to physically defective or crippled children and expenses for such treatment were derived from 1957, No. 16, § 1. V.S. 1947, § § 9852, 9853. 1947, No. 202, & 10,100. P.L. § § 5419, 5420, 1933, No. 157, § § 5116, 5117. 1921, No. 217, § § 1,2 and were repealed by 1967, No. 147, § 53(b).

Sections 451-457, relating to day care facilities, were derived from 1966, No. 20 (Sp. Sess.), § § 2-8 and were repealed by 1967, No. 147, § 53(a).

Sections 501-505, relating to foster homes, were derived from 1953, No. 30. 1949, No. 227, § § 1-4 and were repealed by 1967, No. 147, § 53(a).

Sections 601-627, relating to juvenile courts, were derived from 1967, No. 147, § § 39-42, 53. 1965, No. 194. 1959, No. 142. 1957, No. 16, § 3. 1957, No. 21. 1955, No. 49. 1953, No. 41. 1951, No. 201. 1951, No. 202. 1949, No. 228. V.S. 1947, 9884-9912. 1947, No. 189, § 1. 1947, No. 202, § § 10, 133, 10,134, 10,141, 10,142, 10,144, 10,146, 10,147, 10,149-10,152. 1945, No. 119, § § 9-14. 1945, No. 188, § 1. 1943, No. 89, § 3. 1939, No. 133. 1937, No. 135. 1939, No. 136. P.L. § § 5443-5470. 1933, No. 157, § § 5138, 5140, 5145, 5148-5151, 5153, 5156-5159, 5161. 1921, No. 233, § 1. 1919, No. 206. 1919, No. 207, § 1. 1919, No. 208, § § 1,3,4. 1919, No. 297, § 1. G.L. § § 7323-7337. 1917, No. 244, § § 8-11, 26. 1917, No. 254, § § 2646-2660. 1915, No. 92, § § 1-15. 1912, No. 113, § § 1-15. P.S. § 3242. V.S. § 3834. 1884, No. 56 and were repealed by 1967, No. 304 (Adj. Sess.), § 37 and 1969, No. 135, § 15.

Sections 671-678, relating to criminal proceedings against children were derived from 1966, No. 24 (Sp. Sess.). 1961, No. 1951, No. 177, § § 1-3. V.S. 1947, § § 7946-7953. 1947, No. 202, § 8089. P.L. § § 8766, 8768-8772. 1923, No.

142. G.L. §§ 7188, 7190-7194. 1917, No. 115, § 2. 1917, No. 254, §§ 6992, 6994. 1915, No. 91, § 7. 1915, No. 92, § 10. 1910, No. 234, § 1. P.S. §§ 6032, 6036-6040. 1906, No. 63, § 33. 1898, No. 125, § 1. 1896, No. 114, §§ 1, 2. V.S. §§ 5219, 5223-5227. 1894, No. 297. 1884, No. 53, § 6. R.L. §§ 4379, 4383-4387. 1875 S., No. 3, § 1. 1875 S., No. 4. 1870, No. 101, § 1. 1867, No. 33, §§ 1-5. 1866, No. 10, §§ 11, 12. 1865, No. 1 § 5 and were repealed by 1967, No. 304 (Adj. Sess.), § 39 and 1969, No. 125, § 15.

Section 679, relating to the sentencing of youthful offenders, was derived from 1967, No. 304, (Adj. Sess.), § 38. 1966, No. 24 Sp. Sess.), § 38. 1966, No. 24 (Sp. Sess.), § 8 and was repealed by 1971, No. 109 (Adj. Sess.), § 22.

Sections 701-963, relating to municipal poor relief, were derived from 1969, No. 141, § 4. 1965, No. 6, § 2. 1965, No. 160, § 2. 1965, No. 160, § 2. 1965, No. 180, §§ 2-6. 1963, No. 44, § 2. 1963, No. 53, §§ 1, 2. 1959, No. 131. 1959, No. 382 (Adj. Sess.), § 8. 1957, No. 20. 1957, No. 204. 1957, No. 299, §§ 1-7. 1955, No. 273, §§ 1-3. 1953, No. 56. 1953, No. 196, § 2. 1953, No. 58. 1951, No. 169, §§ 1-4. V.S. 1947, §§ 7097, 7099, 7100-7118, 7120-7123, 7129-7134. 1947, No. 202, §§ 7150, 7153-7157, 7164, 7169, 7175, 1945, No. 29, § 43. 1945, No. 52, §§ 1, 2. 1945, No. 53, § 1. 1943 No. 46, § 1. 1947, No. 47, §§ 1-5. 1941, No. 61, § 1. 1941, No. 61, §§ 2. 1939, No. 70, § 1. 1935, No. 76, § 1. 1935, No. 77, §§ 1-3. 1933, No. 157, §§ 3642, 3643, 3670, 191, No. 58, §§ 1-3. P.L. §§ 3918-3827, 3937-3939, 3943, 3945-3948, 3954-3956. 1921, No. 112. 1919, No. 112. 1919, No. 142, § 1. G.L. §§ 4215-4223, 4232-4234, 4338, 4240-4243. 1915, No. 122, § 1. P.S. §§ 3663-3671, 3676-3678, 3682, 3684-3687. R. 1906, § 3545. 1906, No. 102, §§ 1, 2. 1906, No. 103, § 1. 1904, No. 81, § 1. 1898, No. 62, § 1. 1896, No. 66, § 1. V.S. §§ 3168-3175, 3179-3181, 3185, 3187-3189. 1894, No. 62. 1892, No. 55. 1886, No. 42, §§ 2, 4. R.L. §§ 2814-2818, 2822-2824, 2828, 2830-2832. G.S. 20, §§ 1-3, 13, 19-21, 24, 27-30. R.S. 15, §§ 1-3, 12-15, 18, 21-24. R. 1797, p. 263, § 2. R. 1797, p. 277, § 20. R. 1787, p. 111, 112, 114, 115 and were repealed by 1967, No. 147, § 53(b).

Section 991, relating to action for recovery of expenditures, was derived from 1957, No. 299, § 8. V.S. 1947, § 7119. 1937, No. 61. P.L. § 3928. G.L. § 4224. 1908, No. 90 and was repealed by 1977, No. 147 (Adj. Sess.).

Sections 992-1036, relating liability upon desertion of child and penalties, were derived from 1953, No. 196, § 1. V.S. 1947, No. 202, § 7192. 1939, No. 71. 1935, No. 80. P.L. §§ 3935, 3936, 3949-3953. 1919, No. 107. G.L. §§ 4230, 4231. 4245-4247. 1908, No. 62. P.S. 3674, 3675, 3689-3691. R. 1906, § 3549, 3550. V.S. §§ 3177, 3178, 3190-3192. 1886, No. 42, §§ 7, 15. R.L. §§ 2820, 2921, 2843-2845. G.S. 20, §§ 1, 31, 32, 1867, No. 40. 1865, No. 49. 1861, No. 35. 1856, No. 24. R. S. 16, § 25. 1817, p. 88 and were repealed by 1967, No. 147, § 53(b).

Sections 1102, 1104 and 1106-1118, relating to town homes, were derived from V.S. 1947, §§ 7142, 7144, 7146-7159. P.L. §§ 3962, 3964, 3966-3979. 1933, no. 157, § 387. 1927, No. 62, § 1. G.L. §§ 4252, 4255-4268. 1915, No. 123, §§ 1, 2. P.S. §§ 3700-3713. V.S. §§ 3194, 3197-3210. R.L. §§ 2854, 2857-2870. 1878, No. 85, § 5. G.S. 21, § 4-17, 19. R.S. 17, § 4-17, 19. 1837, No. 23, § 2. R. 1797, p. 281, § 24 and were repealed by 1967, N. 147, § 53(1b).

Section 1119, relating to discontinuance of town homes, was derived from V.S. 1947, § 7160. P.L. § 3980. G.L. 4269. P.S. § 33714. V.S. § 3212. R.L. § 2872, G.S. 21, § 20. R.S. 17, § 20 and was repealed by 1977, No. 147 (Adj. Sess.).

Sections 1201-1203, relating to burial at public expense, were derived from V.S. 1947, §§ 6742-6744. 1947, No. 202, §§ 6846, 6847. P.L. §§ 7470-7472. 1923, No. 114. G.L. §§ 6097, 6098. P.S. §§ 5374, 5375. V.S. §§ 4641, 4642. 1884, No. 85, §§ 1, 2 and were repealed by 1967, No. 147, § 53(b).

Section 1301, relating to state contracts with federal government for unemployment relief, was derived from V.S. 1947, § 436; 1937, No. 9, § 1 and was repealed by 1967, No. 147, § 53(a).

Sections 1401-1411, relating to interdepartmental office on aging were derived from 1963, No. 193, § 28; 1961, No. 220, § 1-11 and were repealed by 1971, No. 198 (Adj. Sess.), § 4.

Sections 1501-1507, relating to New England Welfare Compact, were derived from 1965, No. 12, § 2 and were repealed by 1969, No. 256 (Adj. Sess.), § 10.

Sections 2506, relating to social welfare board, was derived from 1967, No. 147, § 1 and 1969, No 256 (Adj. Sess.), § 2 and was repealed by 1973, No. 101, § 6.

Section 2571, relating to review and appeal, was derived from 1967, No. 147, § 1. 1969, No. 256 (Adj. Sess.), § 3, and 1971, No. 98, § 8 and was repealed by 1973, No. 101, § 6.

Section 2561, relating to issuance or granting of licenses by department of social welfare, was derived from 1967, No. 147, § 1 and was repealed by 1973, No. 152 (Adj. Sess.), § 37.

Section 2601, relating to surplus commodities, was derived from 1967, No. 147, § 2 and was repealed by 1973, No. 152 (Adj. Sess.), § 37.

Sections 2655-2658, relating to liens against property of certain welfare recipients and revolving fund, were derived from 1969, No. 256 (Adj. Sess.), § 5. 1967, No 147, § 3 and were repealed by 1971, No. 249 (Adj. Sess.), § 2.

Sections 2659, relating to priority of debts in settling estate, was derived from 1967, No. 147, § 3 and was repealed by 1973, No. 75, § 8.

Section 2726, relating to order to withhold and deliver wages was derived from 1977, No. 212 (Adj. Sess.), § 2 and was repealed by 1985, No. 63, § 22(2).

Section 2729, relating to failure to comply with order to withhold and deliver wages was derived from 1977, No. 212 (Adj. Sess.), § 2 and was repealed by 1985, No. 63, § 22(3).

Section 2730, relating to protection of employee from discharge by employer, was derived from 1977, No. 212 (Adj. Sess.), § 2 and was repealed by 1985, No. 63, § 22(4).

Section 3003, relating to general assistance at expense of state, was derived from 1973, No. 207 (Adj. Sess.), § 2. 1967, No. 147, § 7 and was repealed by 1975, No. 132 (Adj. Sess.), § 2.

Section 3026, relating to relief by jailer, was derived from 1967, No. 147, § 7 and was repealed by 1969, No. 126, § 1.

Sections 3050 and 3051, relating to duty of department to assist employable persons in finding employment and aid in obtaining occupational training, were derived from 1967, No. 147, § 7 and were repealed by 1975, No. 254 (Adj. Sess.), § 162(a).

Sections 3401-3404, relating to interagency council on child development, were derived from 1973, No. 245 (Adj. Sess.), § 1 and were repealed by 1977, No. 6.

NOTES APPLICABLE TO ENTIRE CHAPTER

HISTORY

REVISION NOTE. This chapter was enacted by 1987, No. 264 (Adj. Sess.), § 2, as sections 20-24 of Title 3, but was redesignated as sections 31-35 of Title 3 to avoid conflict with sections 20 and 21 of Title 3 enacted by 1987, Nos. 200 (Adj. Sess.) and 257 (Adj. Sess.).

§ 4302. State interagency team

(a) A state interagency team is created and shall consist of eight members:

- (1) the director of the division responsible for special education for the department of education;
- (2) the department of education's consultant for children and adolescents with a severe emotional disturbance;
- (3) the director of the division responsible for mental health services for the department of developmental and mental health services;
- (4) the children's program specialist for the division responsible for mental health services for the department of developmental and mental health services;
- (5) the director of the division responsible for social services for the department of social and rehabilitation services;
- (6) the placement consultant for the division responsible for social services for the department of social and rehabilitation services;
- (7) a representative of the secretary of the agency of human services;
- (8) a parent of a child or adolescent with a severe emotional disturbance. Such parent shall receive compensation in accordance with the provisions of section 1010 of Title 32, and such compensation shall be paid for by the agency of human services.

(b) The state interagency team shall have the following powers and duties:

- (1) submit an annual report to the commissioners of developmental and mental health services, social and rehabilitation services and education on the status of programs for children and adolescents with a severe emotional disturbance which shall include a system of care plan. The system of care plan shall identify the characteristics and number of children and adolescents with a severe emotional disturbance in need of services, describe the educational,

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residential, mental health or other services needed, describe the programs and resources currently available, recommend a plan to meet the needs of such children and adolescents, and recommend priorities for the continuation or development of programs and resources;

(2) ensure that local interagency teams are established by January 1, 1989;

(3) develop and coordinate the provision of services to children and adolescents with a severe emotional disturbance;

(4) make recommendations to the local interagency team for resolution of any case of a child or adolescent with a severe emotional disturbance referred by a local interagency team under section 4303(f) of this chapter; and

(5) recommend to the secretary of the agency of human services and to the commissioners of the departments of education, developmental and mental health services, and social and rehabilitation services any fiscal, policy, or programmatic change at the local, regional, or state level necessary to enhance the state's system of care for children and adolescents with a severe emotional disturbance and their families.

HISTORY: Added 1987, No. 264 (Adj. Sess.), § 2; amended 1989, No. 187 (Adj. Sess.), § 5; 1995, No. 174 (Adj. Sess.), § 3.

NOTES:
HISTORY

REVISION NOTE. In subdiv. (b)(4), substituted "section 33(f)" for "subsection 22(f)" in view of the redesignation of former section 22 of Title 3 as section 33 of Title 3 and to conform reference to V.S.A. style.

In subdiv. (b)(4), substituted "section 4303(f) of this chapter" for "section 33(f) of this chapter" in view of the recodification of this chapter by 1989, No. 148 (Adj. Sess.), § 2(b).

AMENDMENTS--1995 (ADJ. SESS.). Subdivision (a)(3): Substituted "department of developmental and mental health services" for "department of mental health and mental retardation".

Subdivision (a)(4): Substituted "department of developmental and mental health services" for "department of mental health and mental retardation".

Subdivision (b)(1): Substituted "commissioners of developmental and mental health services" for "commissioners of mental health and mental retardation".

Subdivision (b)(5): Substituted "department of developmental and mental health services" for "department of mental health and mental retardation".

--1989 (ADJ. SESS.). Subdivision (a)(3): Added "and mental retardation" following "mental health".

Subdivision (a)(4): Added "and mental retardation" following "mental health".

Subdivision (b)(1): Inserted "and mental retardation" following "mental health" in the first sentence.

Subdivision (b)(5): Inserted "and mental retardation" following "mental health".

PRIOR LAW. 3 V.S.A. § 32.

USER NOTE: For more generally applicable notes, see notes under the first section of this heading: division, article, chapter, part or title.

§ 4303. Local interagency teams

(a) There shall be at least one local interagency team for each administrative district established by the department of social and rehabilitation services whose permanent membership shall include:

(1) the person from the designated community mental health agency for that district responsible for coordinating children's services;

(2) the person managing the district office of the department of social and rehabilitation services for that district;

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(3) a special education administrator from a school district in that district;

(4) a person designated by the secretary of the agency of human services;

(5) a parent of a child or adolescent with a severe emotional disturbance. Such parent shall receive compensation in accordance with the provisions of section 1010 of Title 32, and such compensation shall be paid for by the agency of human services.

(b) In addition to the permanent members, the local interagency team reviewing the case of a child or adolescent shall include as ad hoc members the special education administrator of the school district serving the child or adolescent and the parents of the child or adolescent. The local interagency team may appoint on an ad hoc basis, other persons determined to be necessary for the effectiveness of the team.

(c) The local interagency team shall appoint one of its permanent members to be chair. If the local interagency team cannot agree on a chair, one will be appointed by the state interagency team.

(d) A referral may be made by a local agency, service provider, or parent concerning a child or adolescent with a severe emotional disturbance when agreement cannot be reached with respect to the provision of appropriate services for the child or adolescent. When a referral is made, the local interagency team shall

(1) make recommendations concerning the following matters upon which agreement cannot be reached: assessment of the child, coordinated service planning and the provision of services for the child or adolescent;

(2) review the coordinated services plan for the child or adolescent and amend the plan if necessary.

(e) The local interagency team may meet at the request of any agency or parent to serve as a forum for consideration of general issues relating to implementation of the provisions of this chapter.

(f) After all attempts have been made without success to resolve any matter considered under subsections (d) or (e) of this section the matter shall be referred to the state interagency team.

(g) The local interagency team annually shall inform all local agencies and service providers for children and adolescents with severe emotional disturbances of the provisions of this chapter and any implementing rules or procedures.

HISTORY: Added 1987, No. 264 (Adj. Sess.), § 2; amended 1989, No. 203 (Adj. Sess.), §§ 2, 3.

NOTES:
HISTORY

CODIFICATION. Pursuant to 1989, No. 148 (Adj. Sess.), § 2(e), the amendments to former 3 V.S.A. § 33 by 1989, No. 203 (Adj. Sess.), § 2, 3, were incorporated in the text of this section.

AMENDMENTS--1989 (ADJ. SESS.). Subsection (d): Amended generally.

Subsection (g): Substituted "any implementing rules or procedures" for "the rules adopted to implement this chapter" following "chapter and".

PRIOR LAW. 3 V.S.A. § 33.

USER NOTE: For more generally applicable notes, see notes under the first section of this heading: division, article, chapter, part or title.

§ 4304a. Advisory board

(a) An advisory board is created to advise the commissioners of developmental and mental health services, social and rehabilitation services and education about children and adolescents with a severe emotional disturbance and their families.

(b) The advisory board shall also advise the commissioners on the development of the system of care plan described in subsection 4305(c) of this title.

(c) The state interagency team shall recommend to the governor a list of potential board members. The governor shall appoint from that list three parents of children or adolescents with a severe emotional disturbance, three advocates from organizations working on behalf of children and adolescents with a severe emotional disturbance and three professionals in related fields or service organizations.

(d) Members of the board shall serve for a term of three years, beginning April 1 of the year of appointment or until their successors are appointed. Initially one-third of the members shall be appointed to one-year terms, one-third to two-year terms and one-third to three-year terms. Thereafter, members shall be appointed for three-year terms.

(e) The board shall elect a chair from among its members. The board shall meet annually at the call of the chair, and other meetings may be called by the chair at such times and places as the chair deems necessary.

(f) The members of the board who are employees of the state shall receive no additional compensation for their services, but actual and necessary expenses shall be allowed state employees and shall be charged to their departments. The members of the board who are not state employees shall receive compensation as provided in 32 V.S.A. § 1010, and that compensation shall be paid by the agency of human services.

HISTORY: Added 1993, No. 203 (Adj. Sess.), § 1; amended 1997, No. 147 (Adj. Sess.), § 138b; 1995, No. 174 (Adj. Sess.), § 3.

NOTES: HISTORY

AMENDMENTS--1997 (ADJ. SESS.). Subsection (c): Substituted "three" for "five" wherever it appeared.

--1995 (ADJ. SESS.). Subsection (a): Substituted "commissioners of developmental and mental health services" for "commissioners of mental health and mental retardation".

USER NOTE: For more generally applicable notes, see notes under the first section of this heading: division, article, chapter, part or title.

§ 4305. Coordinated system of care

(a) Services provided by or through the departments of developmental and mental health services, social and rehabilitation services and education to children and adolescents with a severe emotional disturbance shall be pursuant to a coordinated services plan, developed in accordance with the provisions of this chapter.

Nothing in the provisions of this chapter shall be construed to grant an entitlement to any child or adolescent with a severe emotional disturbance to receive any educational, residential, mental health or other service until and unless the general assembly further provides that such children and adolescents or any subgroup thereof are so entitled.

(b) The state board of education and the departments of developmental and mental health services and social and rehabilitation services shall jointly adopt rules by January 1, 1991 implementing the provisions of this chapter. Such rules shall:

(1) provide guidelines for local interagency teams for development of procedures, with public participation, relating to:

(A) referral, assessment, development, annual review and revision of coordinated service plans, and time frames for these activities;

(B) fixing responsibility for case management; and

(C) notice to parents and guardians and other agencies.

Local interagency teams shall submit procedures developed in accordance with the rules adopted under this subdivision to the advisory board for review and comment. Thereafter, the proposed procedures shall be submitted to the commissioners, who shall approve the procedures if all the elements of these subdivisions are satisfied.

(2) protect the rights of children and adolescents and their parents and guardians concerning consent and confidentiality;

(3) ensure that matters unresolved after state interagency team review are subject to procedures for notice, hearing and decisions of contested cases consistent with the provisions of chapter 25 of Title 3.

(c) The commissioners of developmental and mental health services, social and rehabilitation services and education shall jointly submit to the general assembly a report on the status of programs for children and adolescents with a severe emotional disturbance and their families which shall include a system of care plan. The report shall be submitted together with the general appropriation bill provided for by section 701 of Title 32. The system of care plan shall

(1) identify the characteristics and number of children and adolescents with a severe emotional disturbance in need of appropriate services, describe the educational, residential, mental health or other treatment services needed, describe currently available programs and resources, recommend a plan to meet the needs of such children, recommend priorities for the continuation or development of programs and resources, and make an assessment of the success of such programs; and

(2) provide information as available on the extent to which children and adolescents with a severe emotional disturbance have not received services, the characteristics and number of those children and adolescents who have not received services and recommendations on how to address their identified needs.

(d) The secretary of human services and the commissioner of education shall report to the general assembly by January 15, 1991 with their recommendations concerning the coordination and provision of adequate and appropriate services to all children with disabilities. The report shall identify the characteristics and number of children with disabilities in need of services, describe the educational, residential, mental health, or other services needed, describe currently available programs and resources, recommend priorities for the needs of children with disabilities, and recommend a plan to meet the continuation or development of programs and resources.

(e) Nothing contained in this chapter shall be construed to diminish the rights of children with disabilities, their parents, guardians or surrogate parents under federal or state law including but not limited to confidentiality, consent for services and evaluation, and parental involvement.

(f) Nothing contained in this chapter shall entitle children and adolescents with a severe emotional disturbance to special education services unless they are otherwise eligible for such services under state or federal law.

(g) Except as otherwise provided in chapter 55 of this title, the receipt of appropriate services for a child or adolescent with a severe emotional disturbance or the child or adolescent's family, including an out-of-home placement, shall not be conditioned on placement of the child or adolescent in the legal custody, protective supervision or protection of the department of social and rehabilitation services.

HISTORY: Added 1987, No. 264 (Adj. Sess.), § 2; amended 1989, No. 187 (Adj. Sess.), § 5; No. 203 (Adj. Sess.), § 4, 5; 1995, No. 137 (Adj. Sess.), § 1; No. 174 (Adj. Sess.), § 3.

NOTES:
HISTORY

CODIFICATION. Pursuant to 1989, No. 148 (Adj. Sess.), § 2(e), the amendment to former 3 V.S.A. § 35 by 1989, No. 203 (Adj. Sess.), § 4, 5, were incorporated in the text of this section.

AMENDMENTS--1995 (ADJ. SESS.). Act No. 137 amended subsec. (c) generally and added subsec. (g).

Act No. 174 substituted "departments of developmental and mental health services" for "departments of mental health and mental retardation" in the first paragraph of subsec. (a) and in the first sentence of the introductory paragraph of subsec. (b), and substituted "commissioners of developmental and mental health services" for "commissioners of mental health and mental retardation" in the first sentence of the introductory paragraph of subsec. (c).

--1989 (ADJ. SESS.). Subsection (a): Act No. 1987 inserted "and mental retardation" following "mental health" in the first sentence of the first paragraph.

Act No. 203 inserted "pursuant to a coordinated services plan, developed" preceding "in accordance with" and deleted "an individual plan and in a coordinated manner as provided by" thereafter in the first sentence of the first paragraph.

Subsection (b): Act No. 187 inserted "and mental retardation" following "mental health" in the first sentence of the introductory paragraph.

Amended generally by Act No. 203.

Subsection (c): Act no. 187 inserted "and mental retardation" following "mental health" in the first sentence.

PRIOR LAW. 3 V.S.A. § 35.

LEGISLATIVE INTENT. 1987, No. 264 (Adj. Sess.), § 1, provided:

"This act is intended to develop and implement a coordinated system of care so that children and adolescents with a severe emotional disturbance and their families will receive appropriate educational, residential, mental health and other treatment services in accordance with an individual plan. The commissioners of mental health (now mental health and mental retardation), of education, and of social and rehabilitation services shall coordinate the provision of services in accordance with an individual plan. The act establishes a means by which to improve the delivery of services by determining who is in charge of the services, by clarifying the administrative process by which they are to be available, and to mandate participation in the process by the three departments.

"The receipt of services or benefits under this act is not intended to be conditioned upon placement of a child in the legal custody, protective supervision or protection of the department of social and rehabilitation services."

STATUS REPORT. 1987, No. 264 (Adj. Sess.), § 18, provided that the report submitted pursuant to subsec. (c) of this section shall include, in addition to the information required under that subsection, comprehensive and accurate information identifying all children with severe emotional disturbances, whether and to what extent such children have not received appropriate services, the characteristics and number of such children who have not received services, why such children have not received services, and alternatives and recommendations concerning how to ensure that all children with severe emotional disturbances will receive appropriate services and the resources necessary to provide those services.

CROSS REFERENCES

Procedure for adoption of administrative rules, see § 801 et seq. of Title 3.

USER NOTE: For more generally applicable notes, see notes under the first section of this heading: division, article, chapter, part or title.